

001 (which was disapproved by the Department on March 1, 1996); and (3) Ordinance No. 3-12-96-006 (which was likewise disapproved by the Department in March of 1996.)

Additionally, SMSC took formal action on April 17, 1995, to amend its Constitution and Bylaws. Such an amendment under applicable federal and tribal law requires approval by the Department of Interior in a process referred to as a "Secretarial Election." The amendment would have, among other things, addressed (1) membership criteria for the Tribe and (2) the Department of Interior's approval requirement over some General Council enactments. The Secretarial Election was held in April of 1995, and the vote was in favor of adopting the amendments. However, the Assistant Secretary of the Interior for Indian Affairs, by letter dated June 2, 1995, declined to approve the Constitutional amendment. SMSC thereafter filed suit against the Department on this matter, but both the U.S. District Court and the Eighth Circuit Court of Appeals upheld the authority of the Department to disapprove the amendments.

One branch of the Department of Interior, the Interior Board of Indian Appeals (IBIA), did in a February 8, 1995 decision, rule in favor of SMSC. In that instance the IBIA overturned the BIA Area Director's decision to disapprove the Tribe's Adoption Ordinance 11-30-93. However, the Assistant Secretary then overturned that ruling by letter dated February 2, 1999.

This history clearly showed that SMSC has had no favorable treatment regarding membership issues from the Department of Interior.